

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Chris Carmichael, et al. Art Unit : 627
Serial No.: 09/710,690 Examiner : Bryan Jaketic
Filed : November 10, 2000
Title : METHODS AND SYSTEMS FOR DISTRIBUTING PRODUCTS VIA A
WIDE-AREA NETWORK SUCH AS THE INTERNET

MAIL STOP PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR \$1.137(a)
TO REVIVE UNAVOIDABLY ABANDONED APPLICATION

Pursuant to 37 CFR \$1.137(a), and in response to the Notice of Abandonment mailed December 26, 2002, applicants hereby petition to revive the abandoned application. The application was abandoned for failure to respond to the May 23, 2002 Official Action.

Enclosed is a proposed response to the Official Action to continue prosecution of the application. Applicants submit that the entire period of delay was unavoidable.

Please apply the \$250 petition fee by a small entity as set forth in 37 CFR \$1.17(1), and any other applicable charges or credits, to Deposit Account No. 06 1050.

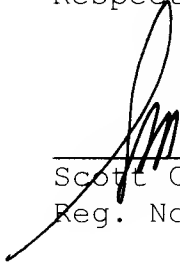
As evidenced by the attached declaration of Connie Jordan (previously Connie Carmichael), the applicants attempted diligently to ascertain the status of the application and

continue its prosecution. As further evidenced from the attached declaration, this is much more than merely having sent documents to the wrong address. The applicant could not have been expected to foresee that the Lyon & Lyon law firm would dissolve, or that patentee's choice of another firm would be unwilling and/or unable to represent them.

Applicants could also not have been expected to foresee that their second law firm would be unable to proceed without the contents of the entire file. This sequence of events is quite simply beyond what a normal person exercising ordinary care would expect. As evidenced from the attached declaration, the applicants used reasonable care, and over the many years, continually attempted to obtain copies of the files and to obtain new attorneys to handle the files. Under the circumstances, the abandonment must be considered unavoidable.

Respectfully submitted,

Date: October 30, 2006



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DECLARATION OF CONNIE JORDAN

I am a member of International Apparel Group, LLC, Inc., a Delaware Corporation ("International Apparel Group, LLC"), and have been a member since September 1998.

International Apparel Group, LLC originally became a client of the law firm of Lyon & Lyon in 1998, using attorneys in Lyon & Lyon's Irvine office. Lyon & Lyon was working on obtaining the issuance of various patents and trademarks for International Apparel Group, LLC. At some point in time, some of the Lyon & Lyon attorneys working on our case moved to Lyon & Lyon's San Diego office. It is my recollection that at least one other attorney working on the case was working out of Lyon & Lyon's Los Angeles office. Some of the case work also remained in the Irvine office, resulting in our files and representation being handled from three different offices of Lyon and Lyon. Samuel

Stone, a "senior partner" in the firm, was the one overseeing the work and was our main point of contact.

My understanding from my last contact with Samuel Stone was that several patent and trademark applications were in various stages of submission and review by the United States Patent Office.

On or about August 2002, I received a phone call informing me that Lyon & Lyon had begun going through the process of disbanding their partnership and liquidating. I was given papers to sign that my Lyon & Lyon attorney told me were needed. I obtained signatures for those papers. I was also promised a referral to another firm. The referral never happened.

On or about March 2003, International Apparel Group, LLC received what appeared to be a form letter sent from either Lyon & Lyon directly, or their counsel, informing us that in order to pick up all of our client files we needed to retrieve them from San Diego.

On or about the end of March 2003, International Apparel Group, LLC had an employee pick up what we believed to be all of our client files from Lyon & Lyon in San Diego. We retrieved 4 boxes of document files. At the time the International Apparel Group, LLC employee picked up the boxes in San Diego, we were not told, nor did we have any reason to believe, that all of our files were not being provided. Moreover, at no time prior,

during, or subsequent to the time the International Apparel Group, LLC employee picked up the boxes in San Diego, was International Apparel Group, LLC provided with any manifest of stored boxes or any other documentation or listing that could have enabled International Apparel Group, LLC to determine if all of its client files had been returned.

Once the International Apparel Group, LLC boxes of files were retrieved from San Diego, they were placed in my office pending a review by new Intellectual Property counsel.

After retrieving the International Apparel Group, LLC boxes of client files, it was difficult for International Apparel Group, LLC to obtain new Intellectual Property counsel to take over the work by the Lyon & Lyon firm. Without even reviewing the files, law firms were unwilling to try to step into the pending patent applications midstream, due to a fear that Lyon & Lyon's bankruptcy might cause some malpractice issues that would lead to their own exposure.

In about July 2003, International Apparel Group, LLC eventually retained the law firm of Ardell & St. George, who examined the client files returned by Lyon & Lyon, and discovered that the patent and intellectual property files were hopelessly incomplete and obviously missing volumes of additional files. As a result the firm became reluctant to represent International Apparel Group, LLC., and withdrew.

In approximately late May through July 2003, I attempted to contact Lyon & Lyon, attorneys who had worked on our case for Lyon & Lyon, and Lyon & Lyon's debtor's counsel, to obtain the balance of International Apparel Group, LLC's missing client files.

I was not able to obtain any information as to further International Apparel Group, LLC client files that must be being held by Lyon & Lyon. Moreover, I was not even able to figure out who was the right person to talk to about getting the balance of our files.

In May 2003, International Apparel Group, LLC moved from 11 Columbia St., Suite B, Aliso Viejo, California, to its then current address at 114 Pacifica Ave., Suite 150, Irvine, California. At the time, International Apparel Group, LLC notified all of its vendors and clients of the change of address, as well as notifying the United States Post Office of the new forwarding address. As some point after the move, International Apparel Group, LLC also informed the California Secretary of State's office of the changed address for the company and its registered agent, I believe it was not later than December 2003. We also eventually changed our address with the U.S. Patent Office, however we were unclear whether this was even necessary, since Lyon & Lyon still had the files.

On or about July 12, 2004, International Apparel Group, LLC received a forwarded copy of the bankruptcy trustee, David Gill's bankruptcy Action and pending actions with International Apparel Group, LLC. This was the first time that I or International Apparel Group, LLC became aware of the pending Action. This is also believed to be the first notice or mailing that I or International Apparel Group, LLC had received at all with respect to the Lyon & Lyon firm since March 2003.

I contacted David Gill and informed him of the numerous files missing that belonged to International Apparel Group, LLC. I also informed him that I had been inadvertently given some files belonging to other parties when the original boxes were retrieved. When I inquired as to the location of the files he informed me "all of the client files for all of the offices of Lyon and Lyon are being held in the basement of an office building in downtown Los Angeles". He further informed me that there were hundreds of boxes and I could go through them at the conclusion of the bankruptcy to recover any of the files.

I was never able to get the files. I continued to pursue the option of trying to obtain copies of my files -- believing that the only way that I could find out the current status of my files was to find the actual files. I recalled that the last thing I was told, by my previous attorney at Ardell & St.

George, was that the patent application process could not be continued without complete files.


In around May of 2005, I was introduced to a new attorney, Scott C. Harris of Fish and Richardson PC, by a mutual friend. Mr. Harris told me that he would be able to get the files if he was provided with certain numbers from the files. I had no idea that it was possible to obtain files, and I asked him to proceed. Mr. Harris obtained the files, and ascertained that some of the applications had become abandoned. I asked him to proceed diligently with attempting to revive these applications, since I had no intent to abandon these applications, and in fact I did everything possible to revive these applications and therefore the abandonment was unavoidable.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may

Attorney's Docket No.: 21100-002001

jeopardize the validity of the application or any patent issued
thereon.

Date:

7-13-06

Connie Jordan

Member

International Apparel Group, LLC

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